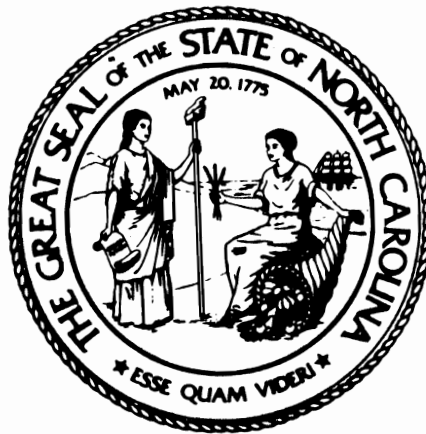


# **LEGISLATIVE RESEARCH COMMISSION**

**REPORT  
TO THE**

**1977**

**GENERAL ASSEMBLY OF NORTH CAROLINA**



## **THE USE OF INMATE LABOR IN DEPARTMENT OF CORRECTION CONSTRUCTION**

**RALEIGH, NORTH CAROLINA**

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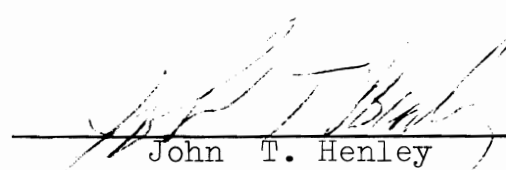
January 12, 1977

TO THE MEMBERS OF THE 1977 GENERAL ASSEMBLY:

Transmitted herewith is the report prepared by the Committee on the Use of Inmate Labor in Department of Correction Construction of the Legislative Research Commission. The study was conducted pursuant to Chapter 851 of the 1975 Session Laws and this report is submitted to the members of the General Assembly for their consideration.

Respectfully submitted,

  
James C. Green

  
John T. Henley

Co-Chairmen

LEGISLATIVE RESEARCH COMMISSION



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## PREFACE

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general-purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1975 General Assembly, the Legislative Research Commission has undertaken studies of twenty-nine matters. These studies were divided into ten groups according to related subject matter. The Co-Chairmen of the Legislative Research Commission, under the authority of General Statutes 120-30.10(b) and (c), appointed committees to conduct the studies, the committees consisting of members of the General Assembly and of the public. Each member of the Legislative Research Commission was given responsibility for one group of studies, and served as chairman of the committees appointed within his area of responsibility. Co-Chairmen, one from each house of the General Assembly, were designated on each committee.

The study of the Use of Inmate Labor in Department of Correction Construction is one of the Department of Correction Matters assigned to Senator Luther Britt. A list of the members of the Legislative Research Commission and a list of the members of the Committee assigned this study may be found in Appendix A.

The Legislative Research Commission was directed by House Bill 296 (1975 S.L., c. 851) to study a variety of subjects. Section 11.4 of that act contains the charge to the Commission with respect to its study of the Use of Inmate Labor in Department of Correction Construction. A copy of section 11.4 may be found in Appendix B.



## COMMITTEE PROCEEDINGS

Senator Glenn Jernigan and Representative Edward Holmes, Co-Chairmen of the Legislative Research Commission Committee on the Use of Inmate Labor in Department of Correction Construction (hereinafter referred to as "the Committee") met with the Committee staff prior to the first full meeting to discuss their views on the broad parameters of the subject to be studied by the Committee. At that time, and during early deliberations with the full Committee, it was resolved to follow several avenues of inquiry. The primary questions to be answered were: (1) What master plan did the Department of Correction have for future construction? (2) Did the prison population contain persons of the necessary skills to perform this construction? (3) Could these construction projects be used as a means of training inmates in skills that would enable them to find employment upon their release? (4) Would the use of inmate labor have a harmful impact on the construction industry in North Carolina? and (5) How would the use of inmate labor affect the timetable currently established for construction.

At the direction of the Co-Chairmen a list of questions was sent to officials of the Department of Correction and they were asked to be prepared to respond to these questions at the first meeting. Appendix C contains a copy of the list of questions.

Mr. Donald Torppa, Deputy Secretary of the Department of Correction, and Mr. W. L. Kautzky, Assistant Director of Prisons, representing the Department of Correction, provided

the data requested at various times by the Committee and responded to questions.

As a number of the questions to be resolved concerned expertise outside the realm of the Department of Correction, representatives of the North Carolina Chapter of the American Institute of Architects and the Carolinias Branch of the Associated General Contractors were asked to assist the Committee. Mr. Dale Blosser appeared for the North Carolina Chapter of the American Institute of Architects and Mr. Henry Pierce for the Associated General Contractors. With the assistance of these gentlemen, the Committee explored the impact of inmate labor upon the construction industry; the feasibility of using construction projects as a training mechanism; the effect of using inmate labor on the cost of construction; and the design problems which might be presented by the use of a prisoner work force.

After soliciting the input of these various sources, the Committee met to discuss the information collected and to formulate findings and recommendations.

## FINDINGS

1. Finding and utilizing the necessary skills for major construction projects among the prison population would be extremely difficult, if not impossible.

Although persons exist within the prison population who possess skills and training in carpentry, masonry, etc., utilizing all the personnel necessary for a single major construction project presents problems in logistics too great to resolve. Any given project would take a significant period of time to complete and delays caused by the weather or other uncontrollable factors may greatly increase that time period. The make-up of the prison population changes continuously. A carpenter/prisoner may complete his sentence or receive a parole before a construction project has been finished, thus removing him abruptly from the work force. As utilizing maximum custody prisoners for construction projects seems too hazardous to be advisable, the pool of possible laborers is reduced. It is further reduced by the need to exclude persons whose sentences will expire before the project is completed. Although unskilled laborers may be replaced during a project, there may not be a sufficient number of skilled workers at any given time to complete the project on or near schedule.

2. Federal restrictions preclude the use of inmate labor on projects financed in whole or in part, with federal funds.

A large proportion of the construction accomplished within the Department of Correction receives some federal funding. This

is especially true of major projects. A representative of the Department of Correction testified that one restriction upon the use of these federal funds is that no inmate labor be used on the construction work. In some instances the Department has been able to distribute available funds in such a manner as to make a specific project financed totally by non-federal sources. When that can be done, inmates could be used in construction. On most major projects, however, the Department is precluded from utilizing an inmate labor force.

3. Major construction projects do not provide a good mechanism for training prisoners in construction skills.

Although a great deal of labor is involved in the construction of even a single large building, only a small portion of that total is needed in each skilled area. There would be insufficient work for a carpenter, for example, to train a prisoner in that trade. Even if there were a great deal of carpentry work, there would probably not be much diversity. A trained carpenter must be familiar with various methods of hanging a door or constructing a window frame. A single project will not provide an opportunity for training in a variety of styles.

The amount of supervision needed for inmate laborers on a major project would be very great and, therefore, costly. Instructors would be needed for training and guards for security. The supervision would have to be very close to insure the safety of the completed structure.

According to testimony received by the Committee, training in the construction field should contain a large component of

classroom instruction. The instruction could be provided, but probably at the expense of other vocational programs. In fact, the impact on existing programs of using inmate labor for construction should not be underestimated. If large numbers of workers are required for construction work, it will impair their availability for work release, study release, or other vocational training. Certainly an inmate who has qualified for work release should not be denied the privilege because his skills are needed for construction work. But if the Department is given the responsibility of putting up the buildings with an inmate work force, there will be a reluctance to divert skilled workers to other programs.

The Committee found that work-release was a significant program and considered the probable negative impact of inmate construction on the work-release program important. In receiving testimony about work-release, however, the Committee was informed that inmates employed in the work-release program were being required to pay the State only \$3.45 per day for their keep. G.S. 148-33.1(f) (a copy of which may be found in Appendix D) provides that the Department of Correction should deduct from a prisoner's pay "an amount determined to be the cost of the prisoner's keep." Among other authorized deductions is one "to pay travel and other expenses of the prisoner made necessary by his employment." Testimony received by the Committee was to the effect that a standard fee of \$.70 per day was deducted regardless of the fact that the transportation expenses of a given inmate might be quite high. Other testimony

indicated that the average annual cost of maintaining a prisoner was over \$4,000, which, on a daily basis, far exceeds \$3.45. The Committee finds that these small fixed deductions do not fulfill the clear direction of the Statute.

4. The use of inmate labor would have a harmful impact on the construction industry in North Carolina.

All persons testifying before the Committee agreed that it would be infeasible to use private contractors and an inmate work force. Therefore, if all construction were to be accomplished by inmates, the private construction industry would play no part in the work at all.

The Committee found that the use of inmate labor for all construction within the Department of Correction would obviously deprive the private sector of the profit to be made on these projects. The extent of this impact would probably not be so significant as to warrant abandonment of the concept if all other factors indicated that the approach would be beneficial. With a variety of reasons militating against the concept, however, the Committee felt that this loss to the private sector should also be given consideration.

5. Utilization of inmate labor may effect the time necessary to complete construction projects and the cost savings are not clearly documented.

The construction industry is vulnerable to a number of factors which can delay completion of any given project. The use of inmate labor would add to this vulnerability. The Committee feels that the caliber of personnel utilized by a private company would

probably be much higher than that of the prison population, in terms of both training and experience. A more serious problem is more likely to be encountered in a lower level of motivation among inmates. Although any system of inmate labor would necessarily require incentives, the Committee has concluded that regardless of what incentive system were adopted, it would be difficult to motivate an inmate work force to a level approaching that of the private sector.

Although officials of the Department of Correction have testified that savings may be realized by using inmate labor, this applies primarily to simple jobs. Large complex projects are beyond the engineering capability of Department staff. To a large extent, the savings realized through use of an inexpensive work force would be offset by the fees of the consultants who would have to be hired for designing, and the artisans hired to do the work which cannot be accomplished by inmates. On simple projects, small buildings, or additions to existing ones, the capability exists within the Department to plan and carry out all phases of the work. This "in-house" capability is what results in much of the cost savings. If the Department were to be given responsibility for major projects, these savings would probably be dissipated.

6. Inmate labor can be effectively used in the construction of small, simple projects and in maintenance and renovation work.

The Committee finds that many of the problems associated with the use of inmate labor for major construction projects, such as

dormitories, are not present with small, simple jobs. Small buildings for storage or other uses require far less work of the more skilled construction workers. The same is true of additions to existing buildings. Laborers can be trained in one or two simple procedures which can be repeated for the entire project. Small jobs normally require the use of fewer pieces of expensive equipment. Because the job is much simpler, it is easier to provide for minimum safety standards in the construction. Although inmates will not receive true vocational training while working only on minor projects, the Committee feels that other benefits may still be realized. Inmates so employed would productively occupy their time. The Committee feels that prevention of idleness among inmates is a primary goal of programs such as that under consideration here.

In addition to actual construction, the Committee feels that inmates could be usefully employed in related work, such as building maintenance and renovation, especially painting. The Committee has found that out of a prison population of approximately 13,500 inmates, a total of only 350 are employed in construction and maintenance combined. The Committee feels that this number could be greatly increased so as to reduce idleness and to improve the condition of our prisons.

7. Current Department of Correction plans call for the use of some inmate labor in construction.

Although testimony received by the Committee indicates that it would be infeasible to rely solely on inmate labor for construction



within the Department, the Committee does not feel that the concept should be completely abandoned. Officials for the Department have indicated that it will not be. Inmates will be used in some construction, thus allowing the success or failure of the program on a limited basis to be evaluated before a full-scale committment to the approach is adopted.

## RECOMMENDATIONS

1. The Department of Correction should utilize inmate labor in construction of small, simple projects and for maintenance and renovation.

This recommendation is in line with current policy within the Department of Correction. Although inmates cannot receive training in the more highly skilled construction trades by working on these minor projects, it offers an additional method of occupying otherwise idle inmates in productive activity. Further, because the Department of Correction can handle all aspects of these small projects without contracting for any outside assistance, these projects can be realized at less cost than through use of the private sector. An additional advantage of using inmate labor is that the Department can schedule construction as the need appears without being affected by the availability of private contractors.

Although the Department currently employs inmates in both construction and maintenance work, the Committee feels that these work programs should be expanded. Approximately 100 inmates are currently employed in construction and 250 in maintenance and renovation out of a prison population of 13,500 inmates. The Committee recommends that the Department employ many more prisoners on these tasks which can usefully occupy the prisoners' time and create a more pleasant living environment for them. Painting would seem an especially appropriate task for this work force.

2. The Department of Correction should not be given the responsibility of accomplishing major construction projects through the use of inmate labor.

Most of the testimony received by the Committee pointed out the problems that would probably be encountered if the Department were required to undertake major construction projects using inmate labor. A primary difficulty would be encountered in the effect on other programs. Construction would never be completed if workers were allowed to leave their construction jobs to engage in other programs. Yet it would be unfair to deny an inmate access to a program to which he would otherwise be entitled, like work release, merely because he is needed for construction work. Conflicts such as this would be inherent in the system unless the entire framework of inmate programs were altered.

Another difficulty in using an inmate work force for major projects concerns precautions for the safety of the building. An inexperienced work force would require a high degree of supervision to guarantee that minimum safety standards were met. The need for security precautions increases the number of persons who would have to be employed in a supervisory role. These requirements would, in turn, increase the cost of the project. Other anticipated problems, such as lack of motivation of the workers and the unavailability of skilled craftsmen, also indicate that it would be unwise for the Department of Correction to rely on inmate labor for major construction projects.

3. The General Assembly should re-evaluate the method by which inmates participating in the work release program reimburse the State for the cost of their keep.

G. S. 148-33.1(f) (see Appendix D) authorizes the Department to deduct "an amount determined to be the cost of a prisoner's keep." The Department currently charges \$3.45 per day, plus \$.70 for transportation when it is provided by the Department. The Committee has received testimony that the average daily cost of maintaining a prisoner in the North Carolina system is over \$10.00 per day. The Committee has also been informed that some participants in the work release program earn a large salary.

The Committee recommends that the General Assembly investigate this policy and establish a graduated formula for reimbursement based on the inmate's earnings. This would enable the State to recover the full cost of a prisoner's maintenance from those with good salaries while not over-burdening inmates with low salaries. The Committee further recommends that the full actual cost of a prisoner's transportation be deducted when provided by the Department.

APPENDIX A



# LEGISLATIVE RESEARCH COMMISSION MEMBERS

1975-76

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Sen. William D. Mills	P. O. Box 385 Swansboro, N. C. 28584	(919) 326-8743
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Sen. Carl D. Totherow	710 Coliseum Drive Winston-Salem, N. C. 27100	(919) 723-1031
Sen. J. Wade Walsh	811 Wild Cherry Pl., N.W. Lenoir, N. C. 28645	(704) 754-3297
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APPENDIX B



EXCERPTED FROM CHAPTER 851 OF THE 1975 SESSION LAWS

Sec. 11.4. In its study of the feasibility of using inmate labor in Department of Correction construction the Legislative Research Commission shall look into either construction of new facilities or conversion or expansion of existing facilities being undertaken to the maximum extent feasible utilizing such inmate labor as may be available and fit for such work, contingent upon the availability of funds. If appropriate, the Commission report shall propose a comprehensive master plan for future construction. If the Commission should determine that construction of campus type facilities using inmate labor would be feasible and beneficial, special attention should be given to the development of an appropriate system to provide inmate incentives which might include:

(1) Review of the incentive wage provisions of G.S. 148-18,

(2) Review of good time credit as provided in G.S. 148-13,

(3) Special work release consideration for exemplary work performance, and

(4) Development of any other rewards or incentives that may seem to be desirable.



APPENDIX C



QUESTIONS RELATING TO INMATE LABOR

1. What is the comprehensive master plan for construction of new facilities and renovation of existing facilities in the Department of Correction?
2. What priorities currently exist for construction of new facilities and renovation of existing facilities?
3. What funds are available for these purposes?
4. What is the availability of skilled workers such as carpenters and brick masons among inmates?
5. What training programs exist which could provide inmates trained in construction skills?
6. What types of incentives could be used to encourage inmate participation in construction work or appropriate training?
7. What would be the impact on the construction industry of using inmate labor for Department of Correction Construction?
8. What type of format will be necessary for gaining required professional services(i.e., general contractor, architect) and co-ordinating them with the use of inmate labor?





APPENDIX D



G. S. 148-33.1 (f)

(f) Prisoners employed in the free community under the provisions of this section shall surrender to the Department of Correction their earnings less standard payroll deductions required by law. After deducting from the earnings of each prisoner an amount determined to be the cost of the prisoner's keep, the Department of Correction shall retain to his credit such amount as seems necessary to accumulate a reasonable sum to be paid to him when he is paroled or discharged from prison, and shall make such disbursements from any balance of his earnings as may be found necessary by the Department for the following purposes, considered in a priority order as stated:

- (1) To pay travel and other expenses of the prisoner made necessary by his employment;
- (2) To provide a reasonable allowance to the prisoner for his incidental personal expenses;
- (3) To make payments for the support of the prisoner's dependents in accordance with an order of a court of competent jurisdiction, or in the absence of a court order, in accordance with a determination of dependency status and need made by the local department of social services in the county of North Carolina in which such dependents reside;
- (4) To comply with an order from any court of competent jurisdiction regarding the payment of an obligation of the prisoner in connection with any case before such court.

In addition, the Department of Correction in its discretion may grant a request made in writing by the prisoners for a withdrawal for any other purpose.

Any balance of his earnings remaining at the time the prisoner is released from prison shall be paid to him. The Social Services Commission is authorized to promulgate uniform rules and regulations governing the duties of county social services departments under this section.

